



CALIFORNIA ENERGY COMMISSION

# California Energy Commission Compliance Assistance & Enforcement Office



Compliance Assistance Tutorial

## Title 20 Enforcement Program Overview

December 2015



## Participation Guidelines

To ensure a successful webinar for all please:

- To ask questions or make comments please do so through the chat feature.
- Please mute your phone.
- Please do not place your phone on "hold".

Thank you!



## AGENDA

- Guiding Principles for Enforcement under Title 20
- Title 20 Enforcement Authority
- Violation types & What is a violation
- Who is subject to penalties & Internet sales
- How are penalties calculated?
- Questions



## Guiding Principles for Enforcement

The objective of the appliance efficiency enforcement program is to gain compliance with the *Appliance Efficiency Regulations* that govern the sale or offer for sale of regulated appliances in California and thereby serve the State's goal to reduce greenhouse gas emissions and secure energy and water efficiency opportunities for the residents of California.

Appliance enforcement staff attempt to ensure that:

1. All enforcement actions are timely, effective, and appropriate to the severity of the situation.
2. Any repeated or ongoing noncompliance results in escalating enforcement consequences.
3. All appliance efficiency enforcement actions are conducted in a responsible and transparent manner to provide a level playing field for business activity in California.



## Guiding Principles for Enforcement

A penalty's abiding purpose is to promote compliance with the law.

Four key principles guide staff in working with enforcement matters.

- 1) Deterrence. Every penalty must impose a consequence that will deter both the violator and others from future violations.
- 2) Fairness. To treat the regulated community fairly requires both consistency and flexibility.
- 3) Ensure a level playing field for businesses. A requirement to certify energy efficiency data to the Energy Commission establishes a level playing field for the business environment in California through transparency of performance data.
- 4) Prevent harm to the consumer.



## Title 20 Enforcement Authority

- SB 454 (Pavley, 2011) gave the California Energy Commission the authority to assess administrative civil penalties for violations of the appliance efficiency regulations.
- Title 20, Section 1609. Administrative Civil Penalties. This section of Title 20 went into effect on July 1, 2015.
- “Any person, including a **retailer, manufacturer, contractor, importer or distributor**, that sells or offers for sale an appliance, which is not listed in the Appliance Efficiency Database, is in violation of Section 1608(a)(1) and may be subject to an administrative civil penalty for each unit of the appliance that was sold or is offered for sale.”



## CALIFORNIA ENERGY COMMISSION



CA Governor Ronald Reagan signing Warren-Alquist Act in 1974



## Four violation types under Title 20

1608(a)(2)(C) Failure to certify.

1608(a)(2)(A) Does not meet the efficiency standard.

1608(a)(2)(B) Failure to mark properly.

1609(a)(3) Providing material false information.





## What is a violation?

A violation is the sale or an offer to sell a regulated appliance when the appliance model :

- ✓ Has not been marked properly per 1607, or
- ✓ Has not been certified per 1606(a), or
- ✓ Does not meet applicable standards when tested per 1608(a)(2)(C), or
- ✓ Is not listed in the Appliance Efficiency Database per 1608(a)(1).

If an appliance model does not satisfy one of these requirements, a violation occurs for each unit that was sold and/or offered for sale.

In addition, providing false information to the Energy Commission is a violation.



## Who may be subject to penalties?

Anyone **selling** an appliance that is in violation of the *Appliance Efficiency Regulations*, including retailers, internet and catalog sellers, wholesalers, distributors, and contractors, may be subject to a monetary penalty.

The Energy Commission may also take other appropriate legal and administrative actions, including removal of an appliance model number from the Appliance Efficiency Database, to restrain and discourage the sale of appliances that are in violation of the *Regulations*.



## Internet sales?

Internet sales are covered by Section 1609 of the *Regulations* in the same manner as sales by California “brick and mortar” retailers.

Internet sellers are subject to the same requirements as retail stores.



## How are penalties calculated?

The Energy Commission assesses penalties on a case-by-case basis.

The Commission has no standardized mathematical formula for calculating penalties for an approach that does not weigh individual circumstances properly may result in unjust or ineffective penalties.

Penalties may be assessed up to \$2,500 per violation of the *Appliance Efficiency Regulations*, per unit sold or offered for sale.



## How are penalties calculated?

The Commission takes into account specific facts and circumstances—that may vary from case to case—and applies them to ten factors specified in the *Regulations*.

These factors include:

- The nature and seriousness of a violation.
- The efforts to correct a violation before the start of an enforcement action.
- Whether a penalty would impose an undue burden.



## Is there an appeals process?

The process established in Section 1609(e) of the *Appliance Efficiency Regulations* provides for an enforcement case to be heard by an Administrative Law Judge (ALJ) or by the Energy Commission with the assistance of an ALJ.

A hearing involves a full vetting of the evidence and is evaluated in light of the ten mitigating/aggravating factors specified in the *Regulations*. The Energy Commission then adopts a decision, including whether to impose a monetary penalty.

The *Regulations* allow for judicial review of any monetary penalty or decision imposed by the Energy Commission.



## From Title 20, Section 1608. Compliance, Enforcement, and General Administrative Matters.

“General Requirements for the Sale or Installation of All Appliances.

Any unit of any appliance within the scope of Section 1601 may be sold or offered for sale in California only if:

(1) the manufacturer has:

- (a) **tested** the appliance as required by Sections 1603 and 1604;
- (b) **marked** the unit as required by Section 1607;
- (c) **certified to the Energy Commission** that the appliance complies with the standard.

(2) the appliance model number appears in the appliance efficiency database.”



## New Standards for Plumbing Fittings and Fixtures and their Trigger Dates

Regulated water appliances in California under Title 20	Previous CA Title 20 Regulation	Effective date for this standard is September 1, 2015	Effective date for this standard is January 1, 2016	Effective date for this standard is July 1, 2016	Effective date for this standard is July 1, 2018	Comment
Showerhead	2.5gpm at 80 psi			2.0gpm at 80 psi	1.8gpm at 80 psi	New tiered regulation.
Lavatory Faucet and aerator	2.2gpm at 60 psi	1.5gpm at 60 psi		1.2gpm at 60 psi		New tiered regulation.
Public Lavatory Faucet	2.2gpm at 60 psi		0.5gpm at 60 psi			No sell through is permitted after January 1, 2016.
Kitchen (Sink) Faucet	2.2gpm at 60 psi		1.8gpm, optional temporary flow of 2.2gpm, at 60 psi			No sell through is permitted after January 1, 2016.
Non Wall Mount Urinal	0.5gpf max.		0.5gpf max.			CEC standard catch up to CA Health and Safety Code standard.
Wall Mounted Urinal	0.5gfp max.		0.125gpf max.			No sell through permitted after January 1, 2016.
Water Closet (Toilet)	1.28gpf max.		1.28gpf max.			No sell through permitted. Water closets sold or offered for sale on or after January 1, 2016, shall pass the Waste Extraction Test (Section 7.10) of ASME A112.19.2.





## Resources

### Title 20 Compliance Assistance Hotline

Toll free inside California **(888) 838-1467**

From outside of California **(916) 651-7100**

[ApplianceEnforcement@energy.ca.gov](mailto:ApplianceEnforcement@energy.ca.gov)

Subscribe to the **Title 20 Compliance Assistance** listserv:

<http://www.energy.ca.gov/efficiency/listservers.html>

**Webinar** documents are located here:

<http://www.energy.ca.gov/appliances/forms/index.html#webdocs>



# Questions?





## The Ten Factors

- (A) The nature and seriousness of the violation.
- (B) The persistence of the violation, meaning a responsible person's history of past violations of this Article over the previous seven years.
- (C) The number of violations arising from the course of conduct that is the subject of the enforcement proceeding.
- (D) The length of time over which the violation occurred.
- (E) The willfulness of the persons responsible for the violation.
- (F) The harm to consumers and to the state that resulted from the amount of energy wasted due to the violation.



## The Ten Factors

(G) The number of persons responsible for the violation.

(H) The efforts of the persons responsible for the violation to correct the violation prior to initiation of an enforcement action by the Energy Commission.

(I) The cooperation, by persons responsible for the violation, with the Energy Commission during its investigation.

(J) The assets, liabilities, and net worth of the persons responsible for the violation.

This information will be considered to reduce the administrative civil penalty amount, should a responsible person or persons elect to provide asset, liability, and net worth documentation to the Executive Director to demonstrate that a reduction in a penalty amount is necessary to avoid an undue burden.